

EXHIBIT O

Page 1

1 IN THE UNITED STATES DISTRICT COURT FOR THE
2 NORTHERN DISTRICT OF GEORGIA
3 ATLANTA DIVISION

4 ALPHA PHI ALPHA FRATERNITY,
5 INC., a nonprofit organization
6 on behalf of members residing
7 in Georgia, et al.,

8 Plaintiffs, CASE NO.
9 1:21-CV-05337-SCJ

10 vs.

11 BRAD RAFFENSPERGER, in his
12 official capacity as Secretary
13 of State of Georgia,

14 Defendant.

15 VIDEOTAPED DEPOSITION OF JOHN R. ALFORD, Ph.D.
16 APPEARING REMOTE FROM
17 ATLANTA, GEORGIA

18 FEBRUARY 27, 2023
19 10:01 A.M. EASTERN

20
21 Reported By:
22 Judith L. Leitz Moran
23 RPR, RSA, CCR-B-2312
24 APPEARING REMOTELY

Page 50

1 sense of causation is, it's not my area.

2 But as -- but as an empirical matter, you
3 know, these are correlational studies, no where
4 close to being -- to being actual studies of
5 causation. There's no experimental design, there's
6 no control, there's no manipulation of independent
7 variables.

8 So we're not going to establish causation
9 here ever.

10 Q So I just want to make sure I understand
11 this.

12 So when evaluating voter behavior it's
13 not possible to establish the cause of that voter
14 behavior in your opinion?

15 MR. JACOUTOT: Object to form.

16 A It is possible. It's just not possible
17 with the -- with the data and methods that we --
18 that we have at hand.

19 So we're dealing with -- not just with
20 correlational analysis, but with correlational
21 analysis at an aggregate level.

22 So at a minimum we need to be at the
23 individual level, which we're not; and then at the
24 individual level we would have to be able to
25 exercise -- we certainly could do better with maybe

Page 88

1 case turns on how to characterize the results of
2 her statistical analysis?

3 A Yes, largely on how to characterize the
4 results.

5 Q Okay. So let's see if we can start by
6 finding some common ground and narrowing out some
7 of the things that are in dispute.

8 So do you agree with Dr. Handley that
9 Black voters in the areas of Georgia that she
10 analyzed vote cohesively in general elections for
11 state-wide offices?

12 A Yes.

13 Q Okay. And do you agree with Dr. Handley
14 that white voters in the areas of Georgia she
15 analyzed vote cohesively in general elections for
16 state-wide offices?

17 A That's mostly true. I think there's some
18 areas where they're -- where they're not voting
19 cohesively, but -- but generally that's true.

20 Q Okay. And so the pattern of white voter
21 behavior across Georgia in the areas that she's
22 looking at is generally one of cohesion?

23 A Correct.

24 Q Okay. And would you say that there's a
25 very high level of cohesion among Black voters in

Page 89

1 the areas of Georgia that Dr. Handley looked at?

2 A Yes.

3 Q Okay. And with small exception, would
4 you say that there is a very high level of cohesion
5 among white voters in the areas of Georgia that
6 Dr. Handley looked at?

7 A Yes. And again, that -- that varies a
8 little bit because in some of the areas you've got
9 a higher proportion of white Democratic voters in
10 the areas that are heavily -- more heavily
11 Democratic.

12 But generally speaking, for most of that
13 analysis, the level of cohesion among white voters
14 is -- is high, yes.

15 Q Okay. And again, speaking in the general
16 elections for state-wide offices that Dr. Handley
17 analyzed, did white and Black voters support
18 different candidates?

19 A Yes.

20 Q Okay. And fair to say that large
21 majorities of Black and white voters supported
22 different candidates?

23 A That's generally the case, yes.

24 Q Okay. So she also analyzed state
25 legislative elections in seven areas of Georgia,

Page 90

1 right?

2 A Correct.

3 Q Okay. And were Dr. Handley's estimates
4 of Black and white voter behavior in state
5 legislative elections generally consistent with her
6 estimates of voter behavior for state-wide general
7 elections?

8 A Yes.

9 Q Okay. And so, they show the same pattern
10 of extremely cohesive Black support for a single
11 candidate, right?

12 A Correct.

13 Q And they show with minor area exceptions
14 overwhelmingly cohesive white support for a single
15 candidate, right?

16 A Based on -- unless you're overwhelmingly
17 cohesive means, but I mean --

18 Q Very high. Let me rephrase that
19 question.

20 A -- clearly -- so I think by any
21 definition of cohesion, they show cohesive white
22 support for a different candidate than the one that
23 you have the very cohesive Black support for.

24 So it's -- it is slightly less cohesive,
25 but I felt -- I still think it's in a range that --

Page 91

1 that anybody would label as clearly cohesive.

2 Q Okay. So in the state legislative
3 elections, Black and white voters are voting
4 cohesively, right?

5 A Correct.

6 Q And they're voting for different
7 candidates, right?

8 A Correct.

9 Q Okay. And looking at the state
10 legislative elections that Dr. Handley analyzed,
11 did the -- the candidate preferred by the majority
12 of white voters generally win state legislative
13 elections in districts without a majority of Black
14 voting age population?

15 A I -- that, I'm not sure. Her analysis
16 shows what it shows, but that's not an issue. I
17 was not focused on the performance issue. So that
18 may well be the case but I don't know.

19 Q Okay. Well, so if we took a look at --
20 okay. So let's take a look at -- sorry, one
21 second. Yeah, let's go to Appendix B in her
22 report.

23 A Appendix? I'm sorry, which appendix?

24 Q Appendix B.

25 A B?

Page 112

1 Q -- area?

2 Sorry.

3 A Sorry, that was my fault.

4 Q No, no, go ahead.

5 A But the answer is, yes, they are
6 supporting different --

7 MR. JACOUTOT: I'm going to object to
8 form for that. Sorry, I'm a little late but...

9 MR. MILLER: Okay. Let me -- let me
10 reask it. I may draw the same objection.

11 MR. JACOUTOT: Okay.

12 BY MR. MILLER:

13 Q But in -- in Appendix A2, are Black
14 voters and white voters cohesively supporting
15 different candidates?

16 MR. JACOUTOT: Object to form.

17 A Okay. So, yes, here I think, again, by
18 any reasonable definition these are -- both cases
19 are mostly above 90 percent. They're supporting
20 different candidates, they're supporting them
21 cohesively, and as a consequence the voting is
22 polarized.

23 BY MR. MILLER:

24 Q Okay. And would you say that the -- how
25 would you describe the degree of polarization in

Page 113

1 the elections in Appendix A2?

2 MR. JACOUTOT: Object to form.

3 A I'd describe it as polarized.

4 BY MR. MILLER:

5 Q Would you say that it is starkly
6 polarized in Appendix A2?

7 MR. JACOUTOT: Object to form.

8 A I -- I mean, I don't know. I -- it's --
9 again, the numbers speak for themselves. It's -- I
10 think it's clearly -- this is clear polarization.

11 This is what polarization looks like
12 when, you know, 90 percent of a group -- one group
13 goes one way and 90 percent goes the other.

14 This is what polarization looks like in
15 Congress when 90 percent of the Republicans vote
16 one way and 90 percent of the Democrats vote the
17 other.

18 It's not perfectly polarized or as
19 sometimes as you know from reporting on Congress
20 if -- if 12 percent of the Republicans in Congress
21 crossed over to vote with the Democrats, some
22 people would label that a bipartisan piece of
23 legislation because it actually drew more than one
24 person from the other side. So there is
25 polarization worse than this and we've seen it.

Page 122

1 the general election analysis reveals, not cohesive
2 Black voter support for Black candidates and white
3 voter support for white candidates."

4 Right?

5 A Right.

6 Q Okay. So could you just explain what the
7 basis is for your opinion that voter support
8 candidates on the basis of party affiliation rather
9 than on the basis of race?

10 A Well -- well, that's not the conclusion
11 you just read. I don't think that's in there.

12 Q So how is the conclusion that I just read
13 different from a conclusion that voter support
14 candidates on the basis of party affiliation rather
15 than race?

16 A Well, this -- so this is just describing
17 two potential queues for voters. The party queue
18 that's on the -- both widely known and on the
19 ballot. And the racial queue that presumably
20 people recognize in regard to candidates. So those
21 two queues are available.

22 And then the question is what this
23 analysis shows in response to that. It's --
24 there's no -- this is not an analysis of the
25 partisanship of the voters or -- or what the role

1 voting.

2 Q And so we earlier talked about how a
3 party label can be a confounding variable in your
4 opinion in general elections. Do primaries
5 eliminate that confounding variable when addressing
6 voter behavior?

7 A Yes. And again, there -- it's no longer
8 confounded because while it is true that all of the
9 Black candidates in these primaries are -- are
10 running as Democrats, so are all the white
11 candidates in the primaries.

12 And so, it is no longer the case that --
13 that Black and Democrat go together, and therefore,
14 make it hard to separate it. The party label is
15 consistent across everyone.

16 And so what's varying from candidate to
17 candidate are a whole series of factors, one of
18 which is the race of the candidate.

19 And it's now not perfectly confounded by
20 the party of the candidate, so, yes, you eliminated
21 the confounding factor.

22 Q Okay. So we're able to isolate the queue
23 provided by the race of the candidate when we look
24 at parties; is that fair to say?

25 A We're able to -- I wouldn't say you're

1 MR. JACOUTOT: Object to form.

2 A I guess -- you know, it's -- it's very
3 difficult to say that something is impossible. But
4 I guess -- I hesitate to say it's impossible, but I
5 would say if -- if that were the fact pattern, I --
6 I think it would presume extremely difficult fact
7 pattern for -- for -- for making any sort of
8 judgment under Section 2 of the Voting Rights Act.

9 I mean, what -- so this is jurisdiction
10 where in the -- in -- in the primaries white and
11 Black voters don't care about the race of their
12 candidates.

13 In the Republican primary, the
14 Republicans don't care, Black, white, doesn't make
15 any difference. Democratic primary, they don't
16 care one way or the other. Makes no difference at
17 all.

18 And then when they -- when it gets into
19 the general election suddenly they care deeply
20 about and suddenly race is a powerful factor that
21 -- that seems extremely odd.

22 And -- and one of the things I think
23 that's important and that the -- one of the reasons
24 the court likes to see elections over a period of
25 time, not just a single election, is the idea that

Page 189

1 this is not just some momentary issue but, rather,
2 is a sustained issue that absent the intervention
3 of the court is going to continue to prevent
4 minorities from being able to elect candidates of
5 choice.

6 And so if this -- if this prejudice in
7 the electorate is one that switches off and on
8 within a single election year, in that fashion -- I
9 mean, I -- it's hard to see what -- I can't quite
10 understand what that would be exactly.

11 But I just -- that seems like you set a
12 -- that's a very uphill battle, I think, for
13 establishing that.

14 I mean, the only way that seems likely to
15 me is if voters in the general election continue
16 not to care about the race or candidates or they've
17 already shown they don't care and just vote on the
18 basis of the party of the candidates.

19 I can't imagine that in the general, that
20 suddenly voters that had -- I mean, the argument
21 would be so the Republicans have just nominated a
22 Black candidate, but they refuse to vote for Black
23 candidates in the general election.

24 I guess it's possible, but that's a very
25 self-defeating kind of behavior, isn't it? It's

Page 193

1 people have an actual partisan identification in
2 the United States.

3 Q And all of those degrees of support could
4 be influenced by a number of factors, right?

5 A Yes.

6 Q And we talked earlier about how race is
7 one of the reasons that a person might express some
8 degree of support for a political party, right?

9 A Yes.

10 Q Okay. And so, similarly, race could be a
11 reason for participation in one political party's
12 primary, right?

13 MR. JACOUTOT: Object to form.

14 A I think it could be.

15 BY MR. MILLER:

16 Q And then does the absence of racially
17 polarized voting in a primary tell us why the
18 voters who voted in that primary chose to vote in
19 that primary?

20 A The inquiry into why people choose to
21 vote in a primary is a -- is a large and
22 multifaceted inquiry, so I wouldn't think any one
23 thing would tell you the answer to that question.

24 So I -- I would say among a whole lot of
25 other things that doesn't tell you the reason why